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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. 3-05-70991 EDL
)	
Plaintiff,)	[PROPOSED] ORDER AND STIPULATION
)	WAIVING TIME UNDER RULE 5.1 AND
v.)	EXCLUDING TIME FROM JANUARY 6,
)	2006 TO FEBRUARY 23, 2006 FROM THE
GONZALO MAYORGA,)	SPEEDY TRIAL ACT CALCULATION
)	(18 U.S.C. § 3161(h)(8)(A))
Defendant.)	

The parties appeared before the Court on January 6, 2006. With the agreement of the parties, and with the consent of the defendant, the Court enters this order (1) scheduling a new status hearing date of January 26, 2006 at 9:30 a.m., before the Honorable Joseph C. Spero; (2) scheduling a preliminary hearing/arraignment date of February 23, 2006 at 9:30 a.m., before the Honorable Maria-Elena James; (3) documenting the defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1; and (4) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), from January 6, 2006 to February 23, 2006. The parties agreed, and the Court found and held, as follows:

1. The defendant waived the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny the

1 defense reasonable time necessary for effective preparation, taking into account the exercise of
 2 due diligence, and would deny the defendant continuity of counsel.

3 2. Counsel for the defense believes that postponing the preliminary hearing is in his
 4 client's best interest, and that it is not in his client's interest for the United States to indict the
 5 case before the currently scheduled preliminary hearing/arraignment date. The parties expect to
 6 discuss the possibility of a pre-indictment disposition of the case.

7 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to
 8 grant the requested continuance would unreasonably deny both government and defense counsel
 9 reasonable time necessary for effective preparation, taking into account the exercise of due
 10 diligence, and would deny the defendant and the government continuity of counsel.

11 4. Given these circumstances, the Court found that the ends of justice served by
 12 excluding the period from January 6, 2006 to February 23, 2006, outweigh the best interest of the
 13 public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

14 5. Accordingly, and with the consent of the defendant, the Court ordered that the period
 15 from January 6, 2006 to February 23, 2006 be excluded from Speedy Trial Act calculations under
 16 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

17 4. The Court scheduled a new status date of January 26, 2006, at 9:30 a.m., before the
 18 Honorable Joseph C. Spero, and a new preliminary hearing/arraignment date of February 23,
 19 2006 at 9:30 a.m. before the Honorable Maria-Elena James.

20 IT IS SO STIPULATED.

21 DATED: _____

/s/
 22 TRACIE L. BROWN
 Assistant United States Attorney

23
 24 DATED: _____

/s/
 25 STEVEN KALAR
 Attorney for GONZALO MAYORGA

26 IT IS SO ORDERED.

27 DATED: February 2, 2006
 28 _____


 THE HON. JOSEPH C. SPERO
 United States Magistrate Judge